

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JERAMEY BROWN,)
Plaintiff,)
v.) Case No. 3:04-cv-824-JLF
MADISON COUNTY ILLINOIS, et al.,)
Defendants.)

ORDER

This matter is before the Court on the Motion for Leave to File Second Amended Complaint filed by the Plaintiff, Jeramey Brown, on April 3, 2006 (Doc. 62). The motion is **GRANTED**.

Federal Rule of Civil Procedure 15(a) provides that a party may amend a pleading and that leave to amend “shall be freely given when justice so requires.” However, leave to amend may be denied if there is “undue delay, bad faith, dilatory motive, prejudice, or futility.” Guise v. BWM Mortgage, LLC., 377 F.3d 795, 801 (7th Cir. 2004). The granting or denying of a motion to amend is reviewed for an abuse of discretion. Butts v. Aurora Health Care, Inc., 387 F.3d 921, 925 (7th Cir. 2004).

No party has objected to the motion and there has been no showing of prejudice. Therefore, the Plaintiff **SHALL** file his second amended complaint by April 25, 2006. Generally, an amended complaint moots a pending motion to dismiss. However, as it appears from the motion to amend that the motion to dismiss is still applicable, it will not be mooted at this time. The Defendants are **GRANTED** until May 2, 2006 to file a supplement to the motion to dismiss, if any. The Plaintiff **SHALL** respond to the motion to dismiss, and any supplement,

by May 9, 2006.

DATED: April 20, 2006

s/ Donald G. Wilkerson
DONALD G. WILKERSON
United States Magistrate Judge